

ALLEN GRIMES, on behalf of himself and  
all others similarly situated,  
  
Plaintiff,  
  
v.  
  
LM RESTAURANTS, INC., et al.,  
  
Defendants.

This matter comes before the Court on Plaintiff's Motion for Conditional Certification and Court-Authorized Notice Under Section 216(b) of the Fair Labor Standards Act [47] and the accompanying declarations and memorandum in support of the motion. Defendants have consented to Conditional Certification solely for purposes of judicial efficiency and without conceding that Plaintiff or any potential opt-in Plaintiff are, in fact, similarly situated, without prejudice to their right to seek a narrowing of the definition of the collective group and/or decertification at a later date, and without prejudice to their right to contest the claims on the merits and to assert all available affirmative defenses. The Plaintiff and Defendants have agreed to the form of the Notice and Consent forms attached hereto as Exhibit 1 and to all other procedural matters related to the issuance of the Notice, including:

- (i) Plaintiff's counsel will distribute Notice by U.S. Mail and email, within three (3) business days of receiving the class list from Defendants. Plaintiff's counsel shall also issue Notice,

only as to any individual who has not yet submitted a signed Consent, at the 30 and 45 day intervals after initial distribution.

- (ii) Mailed Notice will also include a Consent form and self-addressed stamped return envelope. Emailed Notice will include an attached .pdf Consent form with the recipient's name already printed in the document such that it cannot be changed and will be accompanied by an email directly from Plaintiff's counsel's electronic signature and online submittal vendor (<http://www.signnow.com>) containing a recipient-specific URL link allowing for electronic signature and submittal directly online.
- (iii) The outside of the mailing envelope for the mailed Notice, and the subject line of the email for the emailed Notice, shall state: "Notice of Unpaid Overtime Lawsuit- Deadline to Join."
- (iv) Consents will be deemed timely if submitted to Plaintiff's Counsel in accordance with the Notice within 60 days of the initial Notice distribution date ("Notice Period") and filed with the Court by Plaintiff's Counsel within three (3) business days of receipt. Any Consent submitted outside of the Notice Period or not filed with the Court within three (3) business days of receipt will be deemed untimely and of no effect absent further order of this Court.
- (v) Opt-in claims remain subject to all applicable statutes of limitation, as tolled by agreement between the parties from November 16, 2018 through and concluding on November 26, 2018.
- (vi) Notices will not be posted at the restaurant locations.

The Court hereby GRANTS the Plaintiff's Motion as modified herein, and authorizes the Notice and Consent forms attached as Exhibit 1 for distribution to potential opt-in Plaintiffs by U.S. mail and

email. The Court further approves notice recipients to electronically sign and submit their Consent forms to Plaintiff's counsel via SignNow.

The Defendants are hereby ORDERED to provide Plaintiff with the full names, date(s) of employment, job title(s), last known addresses, email addresses, telephone number, and date of birth of all putative class members. This production shall be made within ten (10) days of the entry of this Order.

SO ORDERED this the 10th day of December, 2018.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is written in a cursive, flowing style. The first letter "L" is large and loops around. The "W" is also stylized. The signature is positioned above a horizontal line.

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The Honorable Louise W. Flanagan  
United States District Court Judge  
Eastern District of North Carolina